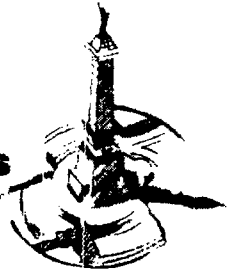




375278

City of  
**Indianapolis**  
Gregory A. Ballard, Mayor



Certified Mail number 91 7108 2133 3934 5198 0780

July 1, 2010

Mr. Thomas Gawlik  
President and CEO  
ESI Environmental, Inc.  
5232 West 79<sup>th</sup> Street  
Indianapolis, Indiana 46268

RE: Ecological Systems, Inc.  
4910 West 86<sup>th</sup> Street  
Indianapolis, Indiana 46268

Dear Mr. Gawlik:

Attached is a revised Notice of Violation pursuant to Section 671-55 of the Sewers and Sewage Disposal Ordinance of the Revised Code of the Consolidated City of Indianapolis and Marion County, Indiana. This Notice of Violation replaces the one issued on October 26, 2009. An additional thirty-two (32) violations have been identified between September 25, 2009, and May 13, 2010, that are included in this enforcement action in **bold**.

As a matter of formality in resolution of this matter, the hearing remains scheduled for Thursday, August 19, 2010, at 1:00 p.m. in Room 107 of the City-County Building, 200 East Washington Street, Indianapolis, Indiana.

If you have any questions concerning this Notice of Hearing or proposed Compliance Agreement, please contact Ms. Cheryl Carlson, Enforcement Program Manager, at (317)327-2281.

Sincerely,

Richard Wise  
Assistant Administrator

RW:clc

cc: Helen Marchal, City Prosecutor, Office of Corporation Counsel  
Richard McDermott, Assistant Corporation Counsel, Office of Corporation Counsel  
Sue Michael, Attorney, Office of Corporation Counsel  
Katherine Bannon, Executive Assistant – Nuisance Abatement, Department of Code Enforcement  
Tim Heider, Industrial Pretreatment Program Coordinator, United Water Services  
Kim Cussen, IPP Specialist, United Water Services  
Michael T. Scanlon, Barnes & Thornburg, L.P. 11 South Meridian Street, Indianapolis, Indiana 46204

Department of Public Works  
Office of Environmental Services

Office of Environmental Services  
2700 South Belmont Avenue  
Indianapolis, Indiana 46221

(317) 327-2234  
(fax) 327-2274  
www.indy.GOV



**Environmental Resource Management and Compliance  
(Formerly the Office of Environmental Services)  
Department of Public Works  
City of Indianapolis**

June 29, 2010

**Revised Notice of Violation**

Pursuant to Chapter 671, Section 671-55, the City of Indianapolis, Environmental Resource Management and Compliance (City) hereby issues this Notice of Violation. The City has requested that the City Prosecutor file a complaint of Ordinance Violation and prosecute this Notice in the Superior Court of Marion County or may issue to you a notice of Administration Hearing on this Notice. Any person found in violation of the Sewers and Sewage Disposal Ordinance or any permit issued by the City is subject to a fine of up to \$2,500.00 per day per violation. The City hereby notes the following ordinance violations:

**Chapter 671 of the Sewers and Sewage Disposal Ordinance**

Chapter 671, Section 671-3(a) states, in pertinent part, that "No person shall discharge or cause to be discharged to any city sewer:

- (a) It shall be unlawful to discharge to any natural outlet or watercourse within the city any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the laws of the United States, the State of Indiana and the city."

Chapter 671, Section 671-4(a) states, in pertinent part, that "No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage into any sanitary sewer."

Chapter 671, Section 671-4(d) states, in pertinent part, that "No person shall discharge or cause to be discharged to any city sewer:

... (6) Solid or viscous substances and/or other pollutants which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to, grease, ... asphalt residues from refining or processing of fuel or lubricating oil ...

...(12) Any gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, carbides, hydrides, Stoddard solvents, sulfides, epoxides, esters, amines, polynuclear aromatic hydrocarbons, pyridines, new and used motor oil or antifreeze, except at concentrations which do not exceed levels of such substances which are routinely present in the normal wastewater

discharge and do not otherwise violate any section of this chapter or the conditions of an industrial discharge permit or special agreement; and ...”

Chapter 671, Section 671-10(d) states, in pertinent part, that “within five (5) working days, unless extended by the director in writing, the industrial user shall submit to the director a detailed written report describing the accidental discharge, including:

- (1) The cause of the accidental discharge;
- (2) The period of the accidental discharge, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
- (3) Steps being taken and/or planned to reduce, eliminate, or prevent recurrence of the accidental discharge.”

Chapter 671, Section 671-16(a) states, in pertinent part, that “Notwithstanding any other section, any person who violates any provision or discharge limit of this chapter may be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00). A violation of any permit issued under this chapter or special agreement entered into under the authority of this chapter shall constitute a violation of this chapter. Each day’s violation shall constitute a separate offense.”

Chapter 671, Section 671-48 states, in pertinent part, that “Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards ...”

Violator's Name: Ecological Systems, Inc.  
Location: 4910 West 86<sup>th</sup> Street  
Indianapolis, Indiana 46268

Responsible Official: Mr. Thomas Gawlik

**Dates of Violations:** 1. – 131. Various dates listed on table below between  
October 31, 2006 and May 13, 2010

132. – 137. On or about March 15, 2007

**Evidence of Violations:**

**Violations 1 through 131.**

The City hereby notes the following ordinance violations based upon sampling conducted by Ecological Systems, Inc. (ESI) to determine compliance with industrial discharge permit number 495306. The sample results and the limit are noted in milligrams per liter (mg/l).

Violation number	Sample Date	Sample Taken By	Parameter	Result	Limit
1	October 31, 2006	Industry	BTEX	2.88 mg/l	0.5 mg/l
2	October 31, 2006	Industry	Benzene	0.988 mg/l	0.05 mg/l
3	October 31, 2006	Industry	MTBE	0.423 mg/l	0.10 mg/l
4	November 28, 2006	Industry	BTEX	0.601 mg/l	0.5 mg/l
5	November 28, 2006	Industry	Benzene	0.161 mg/l	0.05 mg/l
6	November 28, 2006	Industry	MTBE	0.311 mg/l	0.10 mg/l
7	January 31, 2007	Industry	MTBE	0.476 mg/l	0.10 mg/l
8	March 29, 2007	Industry	BTEX	1.057 mg/l	0.5 mg/l
9	March 29, 2007	Industry	Benzene	0.2 mg/l	0.05 mg/l
10	April 26, 2007	Industry	BTEX	1.746 mg/l	0.5 mg/l
11	April 26, 2007	Industry	Benzene	0.507 mg/l	0.05 mg/l
12	May 1, 2007	City	TPH	2210 mg/l	200 mg/l
13	May 29, 2007	Industry	Benzene	0.274 mg/l	0.05 mg/l
14	May 29, 2007	Industry	BTEX	0.554 mg/l	0.5 mg/l
15	June 15, 2007	Industry	MTBE	0.221 mg/l	0.10 mg/l
16	July 19, 2007	Industry	BTEX	0.661 mg/l	0.5 mg/l
17	July 19, 2007	Industry	Benzene	0.16 mg/l	0.05 mg/l
18	July 19, 2007	Industry	MTBE	0.44 mg/l	0.1 mg/l
19	August 15, 2007	Industry	BTEX	0.735 mg/l	0.5 mg/l
20	August 15, 2007	Industry	Benzene	0.241 mg/l	0.05 mg/l
21	August 16, 2007	Industry	Copper	0.667 mg/l	0.405 mg/l
22	August 16, 2007	Industry	Lead	0.329 mg/l	0.222 mg/l
23	August 22, 2007	City	Copper	3.52 mg/l	0.405 mg/l
24	August 22, 2007	City	Lead	1.52 mg/l	0.222 mg/l

Violation number	Sample Date	Sample Taken By	Parameter	Result	Limit
25	August 22, 2007	City	Tin	0.56 mg/l	0.249 mg/l
26	August 22, 2007	City	Zinc	8.88 mg/l	6.95 mg/l
27	October 4, 2007	Industry	BTEX	0.656 mg/l	0.50 mg/l
28	October 4, 2007	Industry	Benzene	0.197 mg/l	0.05 mg/l
29	October 4, 2007	Industry	MTBE	0.558 mg/l	0.10 mg/l
30	November 8, 2007	Industry	BTEX	2.14 mg/l	0.5 mg/l
31	November 8, 2007	Industry	Benzene	0.489 mg/l	0.05 mg/l
32	November 8, 2007	Industry	MTBE	1.06 mg/l	0.1 mg/l
33	December 11, 2007	Industry	BTEX	2.13 mg/l	0.5 mg/l
34	December 11, 2007	Industry	Benzene	0.464 mg/l	0.05 mg/l
35	January 10, 2008	Industry	BTEX	0.838 mg/l	0.5 mg/l
36	January 10, 2008	Industry	Benzene	0.181 mg/l	0.05 mg/l
37	February 5, 2008	Industry	BTEX	1.03 mg/l	0.5 mg/l
38	February 5, 2008	Industry	Benzene	0.217 mg/l	0.05 mg/l
39	February 5, 2008	Industry	MTBE	0.281 mg/l	0.10 mg/l
40	March 10, 2008	Industry	BTEX	2.104 mg/l	0.5 mg/l
41	March 10, 2008	Industry	Benzene	0.478 mg/l	0.05 mg/l
42	April 4, 2008	Industry	BTEX	2.67 mg/l	0.5 mg/l
43	April 4, 2008	Industry	Benzene	0.632 mg/l	0.05 mg/l
44	April 15, 2008	City	Benzene	0.098 mg/l	0.05 mg/l
45	April 15, 2008	City	BTEX	0.614 mg/l	0.5 mg/l
46	April 15, 2008	City	Tin	0.203 mg/l	0.143 mg/l
47	April 15, 2008	City	Lead	0.213 mg/l	0.169 mg/l
48	April 15, 2008	City	Copper	0.476 mg/l	0.397 mg/l
49	April 17, 2008	City	Benzene	0.660 mg/l	0.05 mg/l
50	April 17, 2008	City	BTEX	2.381 mg/l	0.5 mg/l

Violation number	Sample Date	Sample Taken By	Parameter	Result	Limit
51	April 17, 2008	City	MTBE	0.180 mg/l	0.1 mg/l
52	April 18, 2008	City	Benzene	0.870 mg/l	0.05 mg/l
53	April 18, 2008	City	BTEX	7.14 mg/l	0.5 mg/l
54	April 18, 2008	City	MTBE	0.130 mg/l	0.1 mg/l
55	April 18, 2008	City	Bis(2-ethylhexyl) phthalate	0.420 mg/l	0.262 mg/l
56	April 18, 2008	City	p-cresol	0.760 mg/l	0.684 mg/l
57	April 2008	City	p-cresol	0.637 mg/l	0.201 mg/l
58	May 14, 2008	Industry	Benzene	0.223 mg/l	0.05 mg/l
59	May 14, 2008	Industry	BTEX	1.015 mg/l	0.5 mg/l
60	June 5, 2008	Industry	Benzene	0.25 mg/l	0.05 mg/l
61	June 5, 2008	Industry	BTEX	1.163 mg/l	0.5 mg/l
62	June 5, 2008	Industry	Copper	0.982 mg/l	0.397 mg/l
63	June 2008 monthly average	Industry	Copper	0.583 mg/l	0.295 mg/l
64	August 21, 2008	Industry	Copper	0.416 mg/l	0.397 mg/l
65	September 10, 2008	Industry	Benzene	0.066 mg/l	0.05 mg/l
66	November 18, 2008	Industry	Benzene	0.125 mg/l	0.05 mg/l
67	December 9, 2008	Industry	Benzene	0.110 mg/l	0.05 mg/l
68	January 30, 2009	City	Benzene	0.180 mg/l	0.05 mg/l
69	January 30, 2009	City	BTEX	1.057 mg/l	0.5 mg/l
70	January 2009 monthly average	Industry	Lead	0.255 mg/l	0.169 mg/l
71	March 4, 2009	City	Benzene	0.079 mg/l	0.05 mg/l
72	March 5, 2009	City	Lead	0.405 mg/l	0.218 mg/l
73	March 6, 2009	City	Benzene	0.074 mg/l	0.050 mg/l
74	March 6, 2009	City	BTEX	0.840 mg/l	0.500 mg/l
75	March 6, 2009	City	MTBE	0.140 mg/l	0.100 mg/l
76	March 6, 2009	City	Bis(2-ethylhexyl)	0.440 mg/l	0.262 mg/l

Violation number	Sample Date	Sample Taken By	Parameter	Result	Limit
			phthalate		
77	March 30, 2009	Industry	Benzene	0.229 mg/l	0.050 mg/l
78	April 6, 2009	Industry	Benzene	0.248 mg/l	0.050 mg/l
79	April 6, 2009	Industry	BTEX	1.193 mg/l	0.500 mg/l
80	April 6, 2009	Industry	MTBE	0.136 mg/l	0.100 mg/l
81	June 18, 2009	City	Benzene	0.800 mg/l	0.050 mg/l
82	June 18, 2009	City	BTEX	5.08 mg/l	0.500 mg/l
83	June 18, 2009	City	MTBE	0.160 mg/l	0.100 mg/l
84	July 15, 2009 at 09:50	City	Benzene	0.180 mg/l	0.050 mg/l
85	July 15, 2009 at 09:50	City	BTEX	1.53 mg/l	0.500 mg/l
86	July 15, 2009 at 13:10	City	Benzene	0.230 mg/l	0.050 mg/l
87	July 15, 2009 at 13:10	City	BTEX	1.4 mg/l	0.500 mg/l
88	July 15, 2009	Industry	Benzene	0.146 mg/l	0.050 mg/l
89	July 15, 2009	Industry	BTEX	0.658 mg/l	0.500 mg/l
90	July 17, 2009	City	Benzene	0.076 mg/l	0.050 mg/l
91	July 20, 2009	City	Benzene	0.095 mg/l	0.050 mg/l
92	July 20, 2009	City	MTBE	0.150 mg/l	0.100 mg/l
93	July 21, 2009 at 10:05	City	Benzene	0.120 mg/l	0.050 mg/l
94	July 21, 2009 at 11:00	City	Benzene	0.097 mg/l	0.050 mg/l
95	July 21, 2009 at 12:26	City	Benzene	0.084 mg/l	0.050 mg/l
96	August 26, 2009	Industry	Benzene	0.242 mg/l	0.050 mg/l
97	August 26, 2009	Industry	BTEX	1.242 mg/l	0.50 mg/l
98	September 25, 2009	Industry	Benzene	0.197 mg/l	0.050 mg/l
99	September 25, 2009	Industry	BTEX	1.083 mg/l	0.50 mg/l
100	July 15, 2009	City	Benzene	0.180 mg/l	0.050 mg/l
101	July 15, 2009	City	BTEX	1.550 mg/l	0.50 mg/l

Violation number	Sample Date	Sample Taken By	Parameter	Result	Limit
102	July 15, 2009	Industry	Benzene	0.146 mg/l	0.050 mg/l
103	July 15, 2009	Industry	BTEX	0.658 mg/l	0.50 mg/l
104	July 17, 2009	City	Benzene	0.076 mg/l	0.050 mg/l
105	July 20, 2009	City	Benzene	0.095 mg/l	0.050 mg/l
106	July 20, 2009	City	MTBE	0.150 mg/l	0.100 mg/l
107	July 21, 2009	City	Benzene	0.084 mg/l	0.050 mg/l
108	July 21, 2009	City	Benzene	0.120 mg/l	0.050 mg/l
109	July 21, 2009	City	Benzene	0.097 mg/l	0.050 mg/l
110	August 26, 2009	Industry	Benzene	0.242 mg/l	0.050 mg/l
111	August 26, 2009	Industry	BTEX	1.242 mg/l	0.50 mg/l
112	September 25, 2009	Industry	Benzene	0.197 mg/l	0.050 mg/l
113	September 25, 2009	Industry	BTEX	1.083 mg/l	0.50 mg/l
114	October 9, 2009	Industry	BTEX	1.565 mg/l	0.50 mg/l
115	November 13, 2009	Industry	Benzene	0.390 mg/l	0.050 mg/l
116	November 13, 2009	Industry	BTEX	0.957 mg/l	0.50 mg/l
117	December 8, 2009	City	Benzene	0.533 mg/l	0.050 mg/l
118	December 8, 2009	City	BTEX	2.261 mg/l	0.50 mg/l
119	January 14, 2010	Industry	Benzene	0.456 mg/l	0.050 mg/l
120	January 14, 2010	Industry	BTEX	2.659 mg/l	0.50 mg/l
121	February 5, 2010	Industry	Copper	0.573 mg/l	0.397 mg/l
122	February 8, 2010	Industry	Benzene	0.326 mg/l	0.050 mg/l
123	February 8, 2010	Industry	BTEX	1.595 mg/l	0.50 mg/l
124	February 8, 2010	Industry	MTBE	0.286 mg/l	0.100 mg/l
125	April 8, 2010	Industry	Benzene	0.090 mg/l	0.050 mg/l
126	April 22, 2010	Industry	Benzene	0.242 mg/l	0.050 mg/l
127	April 22, 2010	Industry	BTEX	1.777 mg/l	0.50 mg/l



Violation number	Sample Date	Sample Taken By	Parameter	Result	Limit
128	April 22, 2010	Industry	MTBE	0.179 mg/l	0.100 mg/l
129	May 13, 2010	Industry	Benzene	0.133 mg/l	0.050 mg/l
130	May 13, 2010	Industry	BTEX	0.586 mg/l	0.50 mg/l
131	May 13, 2010	Industry	MTBE	3.48 mg/l	0.100 mg/l

Ecological Systems, Inc. failed to comply with limits in Industrial Discharge permit number 495306. Specifically, Ecological Systems, Inc. failed to comply with the benzene limit on fifty-four (54) occasions, the BTEX limit on thirty-nine (39) occasions, the methyl tert-Butyl Ether (MTBE) limit on seventeen (17) occasions, the copper limit on seven (7) occasions, the lead limit on five (5) occasions, the tin limit on two (2) occasions, the zinc limit on one (1) occasion, the 2-bis(ethylexyl)phthalate limit on two (2) occasion, the p-cresol limit on two (2) occasions and the total petroleum hydrocarbon limit on one (1) occasion.

#### **Violations 132. through 137.**

##### **Background Information:**

On or about March 15, 2007, untreated stormwater and oil were discharged from Ecological Systems, Inc. (ESI), located at 4910 West 86<sup>th</sup> Street, Indianapolis. The untreated stormwater and oil were discharged through two (2) internal storm drains located on the northwest side of ESI's facility described by ESI as the special discharge sewer structure and the north storm cistern.

On March 26, 2007, representatives of the City and the City's contractor, United Water Services, conducted dye testing at ESI and confirmed that the 2 internal storm sewers discharged to the City's sanitary sewer on 86<sup>th</sup> Street. The 2 internal storm sewers allowed untreated water and oil to enter the City's sanitary sewer system without being properly treated prior to discharge.

Additionally, ESI failed to provide a written report documenting the accidental discharge of the untreated stormwater and oil within 5 days from the date of the incident. The City received written summary of the incident on May 3, 2007.

##### **Violations:**

132. ESI allowed untreated wastewater and oil to be discharged without providing proper treatment prior to discharge. Chapter 671, Section 671-3(a) states, in pertinent part, that "No person shall discharge or cause to be discharged to any city sewer:

- (a) It shall be unlawful to discharge to any natural outlet or watercourse within the city any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the laws of the United States, the State of Indiana and the city."

133. ESI allowed untreated stormwater to be discharged into the City's sanitary sewer.

Chapter 671, Section 671-4(a) states, in pertinent part, that “No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage into any sanitary sewer.”

134. ESI allowed a viscous substance to be discharged to the City’s sanitary sewer without proper treatment prior to discharge. Chapter 671, Section 671-4(d) states, in pertinent part, that “No person shall discharge or cause to be discharged to any city sewer:

...(6) Solid or viscous substances and/or other pollutants which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to, grease, ... asphalt residues from refining or processing of fuel or lubricating oil ...

135. ESI allowed a petroleum substance to be discharged to the City’s sanitary sewer without proper treatment prior to discharge. Chapter 671, Section 671-4(d) states, in pertinent part, that “No person shall discharge or cause to be discharged to any city sewer:

...(12) Any gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, carbides, hydrides, Stoddard solvents, sulfides, epoxides, esters, amines, polynuclear aromatic hydrocarbons, pyridines, new and used motor oil or antifreeze, except at concentrations which do not exceed levels of such substances which are routinely present in the normal wastewater discharge and do not otherwise violate any section of this chapter or the conditions of an industrial discharge permit or special agreement; and ...”

136. ESI failed to provide written documentation of the accidental discharge within 5 days from the date of the incident. The City received written summary of the incident on May 3, 2007. Chapter 671, Section 671-10(d) states, in pertinent part, that “within five (5) working days, unless extended by the director in writing, the industrial user shall submit to the director a detailed written report describing the accidental discharge, including:

- (1) The cause of the accidental discharge;
- (2) The period of the accidental discharge, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
- (3) Steps being taken and/or planned to reduce, eliminate or prevent recurrence of the accidental discharge.”

137. ESI failed to provide treatment for the stormwater and oil discharged to the City’s sanitary sewer system. Chapter 671, Section 671-48 states, in pertinent part, that “Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards ...”

Chapter 671, Section 671-16(a) states, in pertinent part, that “Notwithstanding any other section,

any person who violates any provision or discharge limit of this chapter may be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00). A violation of any permit issued under this chapter or special agreement entered into under the authority of this chapter shall constitute a violation of this chapter. Each day's violation shall constitute a separate offense."

Ecological Systems, Inc. failed to comply with Chapter 671. Ecological Systems, Inc. is required to comply with Chapter 671 of the Sewers and Sewage Disposal Ordinance of the Consolidated City of Indianapolis and Marion County, Indiana.

7/1/10  
Date

Richard Wise  
Richard Wise  
Assistant Administrator